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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,264	10/09/2001	Robert Marc Zeidman		3915
8791	7590	12/31/2007		
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
			EXAMINER	
			HAQ, NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/972,264

Applicant(s)

ZEIDMAN, ROBERT MARC

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 1, 2007 has been entered.

Response to Amendment

This action is in response to the Applicant's amendment filed on October 1, 2007. New claims 7 and 8 have been added. Claims 1-8 are pending and will be considered for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites the limitation "...the GUI graphically illustrating optimal conditions for offering the item for sale." This limitation lacks written description support in the Applicant's specification. The examiner notes that while Figures 6-9 of the Applicant's specification disclose that the GUI is a web browser, the specification does not provide written description support for the limitation of illustrating optimal conditions for offering the item for sale via the GUI.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et.al. "Database Management Systems" ("Ramakrishnan") and further in view of Official Notice.

Referring to claim 1: Rackson teaches an apparatus for allowing a seller of items to gather data from e-commerce websites, comprising:

- a website server computer (Figure 2, "30") connected to the Internet (Figure 2, "16"), including a database (Figure 3, "32"; Figure 10, "32") for storing data about previous sales (Figure 10, "56"; col. 10, lines 57-60) of

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a plurality items on the e-commerce websites (Figure 2, "12" and "14"; col. 9, lines 7-49);

- data gathering software that visits the e-commerce websites to compile said data about said previous sales (col. 25, lines 5-8; col. 23, lines 18-29); and
- application software operable to allowing a seller to request pertaining to an item to be offered for sale by the seller from the e-commerce websites (col. 25, lines 8-28);
- receive comparison parameters specified by the seller (Figure 13, "600");
- use the comparison parameters to compare the previous sales data gathered from the e-commerce websites that pertains to the item to be offered for sale by the seller (Figure 13, "640")
- provide a visual representation of the comparison of the previous sales data gathered from the e-commerce websites to the seller and optimal conditions for offering the item for sale (Abstract; col. 23, lines 6-17; col. 24, lines 47-51).

Rackson does not disclose database management software for maintaining said database. However, Ramakrishnan discloses the advantages of using database management software for managing data in a database (pages 3, 4, 8, and 9).

Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate database management software into the invention of Rackson. One of ordinary skill in the art would have been motivated to do so in order

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to obtain the benefits described by Ramakrishnan such as data independence, data integrity and security, and crash recovery. The cited prior art does not explicitly teach a GUI (i.e. graphical user interface). However, Official Notice is taken that it is old and well known in the art to display information to a user on a graphical user interface (GUI). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to display information to a user in a user-friendly interface.

Referring to claim 4: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. Furthermore, Rackson teaches network connection software to enable the application software to communicate over the Internet with a seller at a remote computer (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et al. "Database Management Systems" ("Ramakrishnan") and further in view of Official Notice and Bailey et al. (US 6,785,671 B1) ("Bailey").

Referring to claim 2: The cited prior art teaches or suggests all the limitations of claim 1 as noted above. The cited prior art does not teach that the agent software, at regular intervals, searches the e-commerce websites to obtain the data about previous sales. However, Bailey teaches a system for locating web-based product offerings that uses a web crawler (i.e. agent software) to search and obtain data about products at

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regular intervals (col. 5, lines 46-48; col. 14, lines 21-26). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Bailey into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to keep the database current and up to date.

Referring to claim 5: The cited prior art teaches or suggests all the limitations of claim 2 as noted above. Furthermore, Rackson teaches network connection software to enable the agent software to communicate over the Internet with an e-commerce website (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US 6,415,270 B1) ("Rackson") in view of Ramakrishnan et al. "Database Management Systems" ("Ramakrishnan") and further in view of Official Notice and Searcher et al. "Intelligent agents: A primer" ("Searcher").

Referring to claim 3: The cited prior art teaches or renders obvious all of the limitations of claim 1 as noted above. The cited prior art does not teach that the software agent, at times determined by the seller, searches the e-commerce websites to obtain data about previous sales. However, Searcher discloses intelligent agents (i.e. agent software) for searching various websites to obtain data for commercial transactions (page 15, lines 19-22) based on user-specified (page 5, lines 23-27). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Searcher into the invention of the

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cited prior art. One of ordinary skill in the art would have been motivated to do so in order to keep the database current and up to date.

Referring to claim 6: The cited prior art teaches or suggests all the limitations of claim 3 as noted above. Furthermore, Rackson teaches network connection software to enable the agent software to communicate over the Internet with an e-commerce website (Figure 2, "10", "16", and "30"; col. 8, line 64 – col. 9, line 6; col. 23, lines 6-17).

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. The Applicant has argued that Rackson is directed at the buyer and not the seller as claimed by the Applicant in claim 1 (see Remarks page 5). The examiner respectfully disagrees. Rackson explicitly states that both a seller and a buyer can use the invention (Abstract; col. 1, lines 59-63; col. 2, lines 17-45; col. 8, lines 6-12). For this reason the examiner maintains the art rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 26, 2007



NAEEM HAQ
PRIMARY EXAMINER